UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,943	06/08/2001	Ken Alan Berkun	PU010083	9074

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EXAMINER
BENGZON, GREG C

ART UNIT	PAPER NUMBER
2144	

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/876,943	BERKUN ET AL.
	Examiner	Art Unit
	Greg Bengzon	2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *15 February 2005*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final..

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-17* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-17* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 1-04)   Office Action Summary   Part of Paper No./Mail Date 20050420

DETAILED ACTION

This application has been examined. Claims 1-17 are pending. Applicant has amended Claims 1,9,10, and 11. No new Claims have been submitted.

Priority

This application claims benefit of priority from provisional application 60/252273 (November 21, 2000).

The effective date of the subject matter described in the pending claims in this application is November 21,2000.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 (as amended) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 2,4, 9,10,11, 14,15 recite a limitation regarding 'valid metadata'. The

Examiner notes that the metadata is not limited to just a URL representation. The

Examiner notes that such claim language may be interpreted as 1) requiring a correct

format or alphanumeric representation of data, or as the Applicant suggests, 2) a

presence of a working link of between a URL represented as metadata to the actual

multimedia file.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
conditions and requirements of this title.

Claims 11-17 (as amended) are rejected under 35 U.S.C. 101 because the

claimed invention is directed to non-statutory subject matter. Claims 11-17 are directed

to 'a data signal embodied in a carrier wave', said data signal not falling under any

classification for statutory subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5-11, 13-17 rejected under 35 U.S.C. 102(b) as being anticipated by Srivastava et al. (US Patent 654922) hereinafter referred to as Srivastava.

With respect to Claim 1, Srivastava discloses a method for enhancing metadata associated with media on a communications network, said method comprising the steps of: parsing said metadata associated with said media into at least one field of metadata; (Column 1 Lines 40-65,Column 2 Lines 40-65) comparing each of said at least one field of metadata with at least one field of valid metadata, each field of metadata compared with each field of valid metadata being a compared field; (Column 5 Lines 1-5) and modifying said metadata if said compared field does not match at least one field of valid metadata.(Column 6 Lines 15-20)

With respect to Claim 2, Srivastava discloses a method in accordance with claim 1, wherein said step of modifying said metadata comprise at least one of replacing said compared field with a corresponding field of said valid metadata, correcting said compared field in accordance with a corresponding field of said valid metadata, and adding at least one field of metadata to said metadata. (Column1 Lines 40-65,Column 2 Lines 40-65)

With respect to Claim 3, Srivastava discloses a method in accordance with claim 1, wherein said valid metadata is obtained from at least one of a multimedia file, a streaming media file, a uniform resource indicator (URI), a database, a media file

header, a media file.footer, a metatag, and a transport stream (Column 3 Lines 1-10

Column 4 Lines 30-60)

With respect to Claim 5, Srivastava discloses a method in accordance with claim

1, wherein said media comprises at least one of an extension selected from the group

consisting of ram, .rm, rpm, .mov, .qif.wma, .cmr, .avi, .swf, .swl .mpg, .mpa, .mp1,

.mp2, .mp3, m3a, and .m3u. (Column 1 Lines 20-50 Column 4 Lines 30-60)

With respect to Claim 6, Srivastava discloses a method in accordance with claim

1, wherein said metadata comprise elements related to at least one of content of the

media, intellectual property rights associated with the media, and instantiation of the

media.(Column 2 Lines 20-40)

With respect to Claim 7, Srivastava discloses a method in accordance with claim

1, wherein said media comprises at least one of multimedia and streaming media.

(Column 2 Lines 20-40 Column 4 Lines 30-60)

With respect to Claim 8, Srivastava discloses a method in accordance with claim

1, wherein said communications network is a computer network.(Figure 1)

With respect to Claim 9, the applicant discloses a system with the same

limitations described in Claim 1. Claim 9 is therefore rejected on the same basis as

Claim 1.

With respect to Claim 10, the applicant discloses a program readable medium

with the same limitations described in Claim 1. Claim 10 is therefore rejected on the

same basis as Claim 1.

With respect to Claim 11, the applicant discloses a data signal with the same limitations described in Claim 1. Claim 11 is therefore rejected on the same basis as Claim 1.

With respect to Claim 13, Srivastava discloses a data signal in accordance with claim 11, wherein said media comprises at least one of an extension selected from the group consisting of .ram, .rm, .rpm, .mov, .qif .wma, .cmr, .avi, .swf, .swl .mpg, .mpa, .mp1, .mp2, .mp3, m3a, and .m3u (Column 1 Lines 20-50 Column 4 Lines 30-60)

With respect to Claim 14, Srivastava discloses a data signal in accordance with claim 11, wherein said modify metadata code segment performs at least one of replacing said compared field with a corresponding field of said valid metadata, correcting said compared field in accordance with a corresponding field of said valid metadata, and adding at least one field of metadata to said metadata. (Column 1 Lines 40-65,Column 2 Lines 40-65 Column 5 Lines 1-5 Column 6 Lines 15-20)

With respect to Claim 15, Srivastava discloses a data signal in accordance with claim 11, wherein said valid metadata is obtained from at least one of a multimedia file, a streaming media file, a uniform resource indicator (URI), a database, a media file header, a media file footer, a metatag, and a transport stream. (Column 3 Lines 1-10 Column 4 Lines 30-60)

With respect to Claim 16, Srivastava discloses a data signal in accordance with claim 11, wherein said metadata comprise elements related to at least one of content of

the media, intellectual property rights associated with the media, and instantiation of the

media. (Column 2 Lines 20-40)

With respect to Claim 17, Srivastava discloses a data signal in accordance with

claim 11, wherein said media is at least one of streaming media and multimedia files

formatted in at least one of a plurality of formats. (Column 1 Lines 40-60, Column 2

Lines 25-40 Column 4 Lines 30-60)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over

Srivastava et al. (US Patent 654922) hereinafter referred to as Srivastava, in view of

Chu et al. (US Patent 6943720) hereinafter referred to as Chu.

With respect to Claim 4, Srivastava discloses a method in accordance with claim

1, further comprising the steps of: receiving said metadata and corresponding media

files, wherein said corresponding media files are formatted in at least one of a plurality

of formats; providing media files formatted in the same format and associated metadata

to a corresponding format specific metadata extractor; (Figure 1, Column 2 Lines 40-65,

Column 4 Lines 30-60, Column 5 Lines 1-5, Column 6 Lines 15-20)

With respect to Claim 12, Srivastava discloses a data signal in accordance with claim 11, further comprising: a receive code segment for receiving said metadata and corresponding media files, wherein said media files are formatted in at least one of a plurality of formats; a distribute code segment for providing media files formatted in the same format and associated metadata to a corresponding format specific metadata extractor;

However, with respect to Claim 4, Srivastava does not disclose determining if a media file is valid; and if said media file is not valid, performing said step of comparing at a predetermined time in the future. With respect to Claim 12, Srivastava does not disclose a validity code segment for determining if a media file is valid; and if said media file is not valid, a reschedule code segment for performing said step of comparing at a predetermined time in the future.

Chu discloses a method for a metadata synchronizer wherein, at specified intervals, an object is monitored to identify changes to metadata of that object. The method may be used to check if the URL describing the location of a media file is still working after a certain period of time. (Abstract, Column 7 Lines 35-65)

Srivastava and Chu are analogous art because they present concepts and practices regarding extraction, update and management of metadata associated with media files. It is respectfully suggested that at the time of the invention it would have been obvious to a person of ordinary skill in the art to incorporate a monitoring

schedule for checking the validity of metadata related to a media file as taught by Chu

into the method and system described by Srivastava. The suggested motivation would

have been, as Chu suggests, to allow for situations wherein the system enables users

to add or modify metadata for objects in a database. Additionally, some systems may

store the metadata for the objects in multiple locations. If the metadata stored at one

location changes, the metadata stored at other locations is no longer in synch.

Monitoring the media files for validity results in timely updates to the metadata for the

media files before the users can detect the inconsistencies in the system.

Therefore it would have been obvious to combine Chu with Srivastava for the

benefit of increased metadata reliability and increased user desire to reuse the system

repeatedly, to obtain the invention as specified in Claims 4 and 12.

Response to Arguments

Applicant's arguments filed 02/15/2005 have been fully considered but they are

not persuasive. The reasons for non-persuasiveness are set forth below.

With respect to the 35 USC 102(b) rejections, the Applicant suggests that

Applicant's technology, in contrast with Srivastava, is directed at correcting metadata

associated with a particular piece of media using an authoritative source. In the same

argument, the Applicant states that Srivastava describes a system wherein [metadata]

information is only gathered from auxiliary sources if it cannot be extracted from the

media itself, using lookup services available on the Internet (Srivastava, Column 5 Lines

13-20) The Examiner notes that an alternative process is considered another

embodiment of the invention, and thus cannot be discounted from the disclosure.

In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., 'correcting metadata associated with a particular piece of media using an

authoritative source') are not recited in the rejected claim(s). Although the claims are

interpreted in light of the specification, limitations from the specification are not read into

the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Applicant suggests that Srivastava allows overriding or replacing which

metadata elements are retrieved, but does not teach modifying the contents of the

metadata itself.

The Examiner respectfully disagrees and refers the Applicant to Srivastava

Column 2 Lines 40-45, which states that 'the present invention provides a framework

which may be used to advantage to capture, transform, process, and store metadata.'

Srivastava disclosed a transformer module that provides the resulting collected

metadata to a formatter, whereupon said formatter converts the collected and

generated metadata into a corresponding database schema. (Column 2 Lines 55-65)

The metadata which is stored in the database may then be accessed by application

programs in standard ways to perform data management, search, retrieval and

playback functions. (Column 2 Lines 5) Furthermore, the client computer 130 may also

be used to identify or accept auxiliary metadata which describes the media file being

processed, the auxiliary data being accepted as a user keyboard entry or by identifying

the URL of Internet data which contains externally located metadata which describes

the media file 113 being processed. (Column 3 Lines 5) The user can add attributes to

the extracted annotation or change the attribute values. (Column 4 Lines 15-20) The

Examiner suggests that the concepts of transforming metadata, generating metadata,

formatting metadata, and accepting user input as auxiliary metadata are all indicative

of modifying the actual content of the extracted metadata fields.

The Applicant has amended Claims 1,9,10, and 11 to indicate 'contents of each

field of metadata' as the operand for comparing and modifying the metadata. As the

Examiner suggests above, Srivastava has presented several concepts regarding

modify the contents of the metadata. With regards to comparing the contents, the

Examiner notes that Srivastava disclosed storing the metadata in a database format,

such that the data may be accessed or searched using standard query procedures,

such as SQL (Structured Query Language) that is common to relational databases.

The Examiner suggests that the process of querying often involves indicating a field

name and value of the data that is used as an operand in searching the database.

Hence the process of querying disclosed the concept of comparing the contents of the

metadata.

Thus, the Examiner maintains the rejection of Claims 1-3, 5-11, 13-17 (as

amended) under 35 USC 102(b) as presented in the prior Office Action.

With respect to 35 USC 103(a) rejection, the Applicant suggests that Chu does

not teach determining if a media file is valid. Determining that one set of metadata is

newer than another is not the same as detecting that the media itself is unavailable or

corrupt. In contrast, Applicant's technology is concerned with the validity of the media

itself.

In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., 'detecting that the media itself is unavailable or corrupt') are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification,

·limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Examiner notes that the Claims are directed towards the validity of the

metadata and not of the multimedia file itself, nor of the existence of the link between

the URL metadata and the actual file. The Examiner notes that the metadata is not

limited to just a URL representation. The Examiner has interpreted the term 'valid

metadata' to refer to the alphanumeric representation of said metadata. Furthermore,

the Examiner respectfully suggests that taken in context of dealing with metadata that is updated or changed dynamically over a period of time, and the fact that Srivastava has taught dynamically analyzing the multimedia file and extracting the current metadata, (Srivastava Column 4 Lines 30-65) the Examiner suggests that the combination of Srivastava and Chu will lead a person of ordinary skill in the art to conclude that the most current entry in the database for said metadata is a valid entry.

Thus, the Examiner maintains the rejection of Claims 4 and 12 under 35 USC 103(a) as presented in the prior Office Action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (571)272-3925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

gcb

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